

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ASDC HOLDINGS, LLC; ASDC LIQUIDATION, INC.; VALOR MANAGEMENT CORP.; ANTONIO GRACIAS; JUAN SABATER; JONATHAN SHULKIN; and ALL SMILES LIQUIDATION TRUST,

Plaintiffs,

V.

THE RICHARD J. MALOUF 2008 ALL-SMILES GRANTOR RETAINED ANNUITY TRUST, RICHARD J. MALOUF, STRAIT LANE FAMILY LP, CAMELIA FAMILY LIMITED PARTNERSHIP, and DEAL TIME AUTO GROUP, LLC,

Defendants.

[illegible]

Misc. Case No. _____

**Pending before the
American Arbitration Association
(Commercial Arbitration)
Case No. 14 193 Y 00243 11**

**NON-PARTIES' MOTION TO QUASH SUBPOENAS DUCES TECUM
ISSUED IN ARBITRATION PROCEEDING**

TO THE HONORABLE COURT:

Pursuant to Federal Rule of Civil Procedure 45, as made applicable here by Federal Rule of Civil Procedure 81, non-parties Michael P. Gibson (“Gibson”) and Burleson, Pate & Gibson, L.L.P. (“BP&G”) (together “Movants”), file their Motion to Quash certain Subpoenas Duces Tecum, served incident to an arbitration being administered by the American Arbitration Association (the “Arbitration”) and respectfully state as follows:

MOTION TO QUASH

1. Movant Gibson is an individual, a citizen and resident of the State of Texas, and an attorney licensed to practice law in the State of Texas and admitted to practice before this Court.

2. Movant BP&G is a Texas limited liability partnership whose principal office is located in Dallas County, Texas.

3. On August 5, 2015, Movants were each served with a *Subpoenas Duces Tecum*¹ issued out of the Arbitration, and apparently signed by one member of the panel assigned to hear the Arbitration (the “Arbitration Panel”).²

4. The subpoena served on Movant Gibson calls for him to “testify and provide evidence in a certain arbitration hearing” on August 27, 2015, in the offices of Susman Godfrey, LLP, 901 Main Street, Suite 5100, Dallas, Texas.³ The subpoena served on Movant Gibson also commands it to “bring with [him]” certain documents identified in an exhibit to the subpoena.⁴

5. The subpoena served on Movant BP&G commands it to “testify and provide evidence in a certain arbitration hearing” on August 26, 2015, in the offices of Susman Godfrey, LLP, 901 Main Street, Suite 5100, Dallas, Texas.⁵ The subpoena served on Movant BP&G also commands it to “bring with [it]” certain documents identified in an exhibit to the subpoena.⁶

6. Movants were served with the Subpoenas in the Northern District of Texas, and the place of performance specified in the Subpoenas is in the Northern District of Texas;

¹ True and correct copies of the Subpoenas are attached hereto as Exhibits “A” & “B.”

² See Subpoenas, attached hereto as Exhibits “A” & “B.”

³ See Subpoena, attached hereto as Exhibit “A.”

⁴ See Subpoena, attached hereto as Exhibit “A.”

⁵ See Subpoena, attached hereto as Exhibit “B.”

⁶ See Subpoena, attached hereto as Exhibit “B.”

therefore, this Court is the proper forum for this Motion pursuant to Federal Rule of Civil Procedure 45(d)(3)(A), as made applicable here by Federal Rule of Civil Procedure 81(a)

7. As more fully explained in the brief filed contemporaneously herewith, the Subpoenas must be quashed because they seek to invade the attorney-client privilege and work product exemption, impose an undue and unnecessary burden upon the Movants, do not provide a reasonable time for compliance, and lack statutory basis or Rule which would allow them to command pre-trial documents and testimony from a third-party to an Arbitration.

8. For these reasons, and for those more-fully described in the Brief in Support filed contemporaneously herewith and which is incorporated herein, Movants pray that the Court quashes and protects Movants from the Subpoenas, and grants Movants what other and further relief may be warranted or appropriate at law or equity.

PRAYER FOR RELIEF

WHEREFORE, Movants pray that the Court quashes and protects Movants from the Subpoenas, and grants Movants what other and further relief may be warranted or appropriate at law or equity.

Respectfully submitted,

/s/ Douglas Wade Carvell, P.C.
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ATTORNEYS FOR MOVANTS

CERTIFICATE OF CONFERENCE

On August 18, 2015, the undersigned conferred with counsel for the Plaintiffs regarding the Subpoenas and concerns regarding responding to them' In an email, counsel responded "I believe that my clients' entitlement to the client files is clear. . . . we are in the process of moving to enforce the subpoenas." Later that day, counsel for Plaintiffs filed a motion in the Bankruptcy Court which apparently will ultimately seek the production of the documents and testimony objected to herein. The Motion is opposed.

On August 18, 2015, the undersigned conferred with counsel for the Defendants regarding the subject matter of the foregoing motion. Defendants do not oppose the requested relief.

The matter is therefore submitted to the Court for a determination.

Signed this 19th day of August, 2015.

/s/ Douglas Wade Carvell, P.C.
Douglas Wade Carvell, P.C.

CERTIFICATE OF SERVICE

I hereby that on August 19, 2015 a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by electronic mail, facsimile, or regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

I further hereby certify that on August 19, 2015 a copy of the foregoing was served upon the following via the methods indicated:

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